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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,920	08/28/2006	Andreas Basteck	WW042USU	1395
27623 7590 06/02/2009 OHLANDT, GREELEY, RUGGIERO & PERLE, LLP ONE LANDMARK SQUARE, 10TH FLOOR STAMFORD, CT 06901				
EXAMINER LE, DAVID D				
ART UNIT 3655		PAPER NUMBER		
MAIL DATE 06/02/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/550,920

**Applicant(s)**

BASTECK, ANDREAS

**Examiner**

David D. Le

**Art Unit**

3655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 8-24 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 28 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/5508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the second Office action on the merits of Application No. 10/550,920, filed on 28 August 2006. Claims 8-24 are pending.

### **Documents**

2. The following documents have been received and filed as part of the patent application:
- Information Disclosure Statement, received on 09/28/05
  - Copy of Foreign Priority Document, received on 09/28/06
  - Declaration and Power of Attorney, received on 08/28/06
  - Terminal Disclaimer, received on 03/02/09

### ***Terminal Disclaimer***

3. The terminal disclaimer filed on 02 March 2009 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U. S. Patent No. 7,081,689 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 21-24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 21-24 specifically require an overlapping transmission, a transducer, a hydrodynamic clutch and a tri locomotive transducer. The present specification does not adequately provide support for these claimed limitations.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9 recites the limitation "a TRILOK™ converter". It is unclear which specific model year of the TRILOK™ converter that the claimed limitations are referring to.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8-24, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application No. 0 635 639 A1 (hereinafter referred to as EU'639) in view of U. S. Patent No. 3,078,739 to H. Weinrich (hereinafter referred to as Weinrich).

Claims 8-24:

*EU'639* (i.e., Figs. 1 and 2; column 5, line 11 – column 9, line 45) discloses a wind turbine transmission comprising:

- A wind turbine blade (i.e., Fig. 1, element 6);
- A planetary transmission (i.e., Figs. 1 and 2, element 8);
- A converter (i.e., Fig. 1, element 48);
- An electric generator (i.e., Fig. 1, element 46); and
- Wherein the wind turbine transmission controls the power flow so that a speed at which the electric generator is driven is constant (i.e., column 7, line 45 - column 9, line 12).

*EU'639* lacks:

- Wherein the planetary transmission is a power-split transmission having a first power branch for driving the electric generator via the hydrodynamic converter at an output end of the power-split transmission, and a second power branch;
- Wherein the hydrodynamic converter;

- A second planetary transmission connected in series with the power-split transmission;
- Wherein the second planetary transmission is arranged in the second power branch and increases a speed at which the hydrodynamic converter is operated;
- Wherein the hydrodynamic converter includes a pump, a stator, and a turbine wheel;
- Wherein power input occurs via a planetary gear carrier;
- Wherein the first power branch is operably connected to a sun wheel;
- Wherein the second power branch provides feedback to a ring gear; and
- Wherein an output speed is held constant with a maximum deviation of  $\pm 10$ ,  $\pm 5$  or  $\pm 1$  of a specific value.

*Weinrich* (i.e., Fig. 1; column 3, line 49 – column 8, line 17), on the other hand, teaches a transmission comprising:

- A first planetary transmission (i.e., Fig. 1);
- A second planetary transmission (i.e., Fig. 1);
- A hydrodynamic converter (i.e., Fig. 1);
- Wherein the first planetary transmission is a power-split transmission having a first power branch (i.e., Fig. 1);
- Wherein the second planetary transmission is connected in series with the power-split transmission (i.e., Fig. 1);

- Wherein the second planetary transmission is arranged in a second power branch and increases a speed at which the hydrodynamic converter is operated;
- Wherein the hydrodynamic converter is capable of controlling power flow so that a speed at which the electric generator is driven is substantially constant;
- Wherein the hydrodynamic converter includes a pump (i.e., Fig. 1, element 108), a stator (i.e., Fig. 1, element 117), and a turbine wheel (i.e., Fig. 1, element 110);
- Wherein power input occurs via a planetary gear carrier (i.e., Fig. 1, element 102);
- Wherein the first power branch is operably connected to a sun wheel (i.e., Fig. 1, element 106);
- Wherein the second power branch provides feedback to a ring gear (i.e., Fig. 1, elements 105 and 116).

Since all the claimed elements were known in the prior art, one skilled in the art could have substituted the converter 48 and the transmission 8 of EU'639 with the hydrodynamic converter and the transmission of Weinrich as claimed, by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

It would also have been obvious to one having ordinary skill in the art at the time the invention was made to optimize an output speed, such that it is held constant with a maximum deviation of  $\pm 10$ ,  $\pm 5$  or  $\pm 1$  of a specific value, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

***Response to Arguments***

10. Applicant's arguments with respect to claims 8-24 have been considered but are moot in view of the new interpretation of previously applied ground(s) of rejection.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ddl

/David D. Le/  
Primary Examiner, Art Unit 3655  
05/29/2009

